

TITLE 16. CALIFORNIA BOARD OF ACCOUNTANCY

NOTICE IS HEREBY GIVEN that the California Board of Accountancy is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at Crowne Plaza Irvine, 17941 Von Karman Avenue, Irvine, CA 92614, at 9:05 a.m. on January 27, 2012. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the California Board of Accountancy at its office not later than 5:00 p.m. on January 23, 2012 or must be received by the California Board of Accountancy at the hearing. The California Board of Accountancy, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 144, 462, and 5010 of the Business and Professions Code; and to implement, interpret or make specific Sections 144, 462, 490, 5063, 5070.1, 5070.5, and 5100 of the Business and Professions Code, and Sections 11105(b)(10) and 11105(e) of the Penal Code; the California Board of Accountancy is considering changes to Division 1 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law, Business and Professions Code Section 144, mandates that the Board require applicants to submit a full set of fingerprints for the purpose of conducting a criminal history record check. Section 144 further authorizes the Board to obtain and receive criminal history information from the Department of Justice (DOJ) and the United States Federal Bureau of Investigation (FBI).

In addition, existing law in Business and Professions Code Section 5063 requires licensees to disclose certain information, including convictions and license or practice discipline.

1. Adopt Section 37.5 Title 16 of the California Code of Regulations.

Before Section 144 of the Business and Professions Code became effective, a certified public accountant or public accountant licensed prior to January 1, 1998 was not routinely required to submit fingerprints to the Board for purposes of securing a background check by the United States Federal Bureau of Investigation (FBI). This proposed regulation would require all Board licensees for whom an electronic record of his or her fingerprints does not exist in the DOJ's criminal offender record identification database to successfully complete a state and federal level criminal offender record information search conducted through the DOJ prior to renewing after June 30, 2014.

Requiring all licensed certified public accountants and public accountants to submit fingerprints for processing during their next renewal will ensure that the Board receives timely notification of any arrest(s) or conviction(s) from the DOJ in the future in furtherance of its mandate to protect the public.

This proposal would clarify which applicants, other than initial licensing applicants, must submit fingerprints. Applicants renewing in an inactive or retired status, or, actively serving in the U.S. military would be exempt from this requirement. Specifically, it requires, after June 30, 2014, the following licensees to submit fingerprints:

- A licensee applying for renewal as a certified public accountant or public accountant who has not previously submitted fingerprints as a condition of licensure.
- A licensee applying for renewal as a certified public accountant or public accountant for whom an electronic record of the licensee's fingerprints does not exist in the DOJ's criminal offender record identification database (CORI).
- A licensee petitioning the Board for reinstatement of a revoked or surrendered license.
- A licensee returning a license to an active status from an inactive or retired status or following active duty in the United States military.

Following being fingerprinted and a successful CORI search, this regulatory proposal would require licensees to retain either a receipt showing that he or she has electronically transmitted his or her fingerprint images to DOJ, or for those licensees who did not use an electronic fingerprinting system, a receipt evidencing that the licensees or registrants fingerprints were taken and submitted to the Board.. An applicant for renewal would also be required to pay the actual costs of compliance.

The proposal would also require applicants for renewal to disclose the following on the renewal form:

- whether the applicant has submitted fingerprints as required by this proposal;
- whether the applicant has been convicted of any violation of law omitting traffic infractions under \$1,000 not involving alcohol, dangerous drugs or controlled substances; and,
- whether the applicant has had a certificate or right to practice cancelled, revoked or suspended by any other state or foreign body.

Should an applicant for renewal fail to provide the information required by this proposal, the application will be rendered incomplete and the license will not be renewed until the requirements are met.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

Should this proposal go into effect, the CBA will notify all 27,716 active pre-1998 licensees of the fingerprinting requirement. This notification and fingerprinting process will occur over a three fiscal year time frame beginning July 1, 2014 and

ending June 30, 2017. It has been determined that it will be necessary for the Licensing Division to request, via BCP, one analyst and two technical staff members on a 2-year limited-term basis. The three additional staff members will assist with the intake, fingerprint verification, and enforcement referrals for this population of licensees. The CBA will be requesting position authority as well as expenditure authority for salary, wages and benefits through FY 2014-15 and FY 2015-16 BCPs for these costs and workload. Consequently, the fiscal impact to the CBA by fiscal year is detailed below.

- FY 2014-15 \$145,434
- FY 2015-16 \$201,633
- FY 2016-17 \$78,399

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Sections 17500-17630 Require Reimbursement: None

Business Impact:

The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

AND

The following studies/relevant data were relied upon in making the above determination:

Of the approximately 27,716 licensees who may be subject to this proposal, 25,509 of them are in-state. In-state licensees are fingerprinted via locally established California live-scan facilities and pay a one-time “rolling” administrative fee that varies by location from \$0 to \$40.00. Each location is permitted to establish its own fee structure but the overall average amount is \$25.00 and this amount is assumed in the calculation. Additionally, a one-time fee of \$51.00 is paid. Consequently a total one-time payment of \$76.00 is assumed per licensee.

California licensees whose address of record is out-of-state (the remaining 2,207 licensees) must submit two inked fingerprint card hardcopies paying a one-time \$51.00 fee. Other out-of-state state jurisdictions set their own administration fees and are comparable to those of California. Consequently, an average \$25.00 rolling fee will also be assumed in this calculation. Although live-scan is available in other states, it is not interconnected with California’s system therefore licensees must submit inked hardcopies. Any additional postage/shipping fees to send the hardcopies to the CBA are the responsibility of the licensee. A total one-time payment of \$76.00 is assumed per licensee.

FY 2014-15 licensees still active that were licensed prior to 1998:

In-state: \$1,938,684 - (25,509 licensees x \$76.00)

Out-of-state: \$167,732 - (2,207 licensees x \$76.00)

Total: \$2,106,416

Impact on Jobs/New Businesses:

The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business:

The cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action and that are known to the Board are \$76.00 per licensee.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulations may affect small businesses. The CBA has identified approximately 27,716 active licensees who may be subject to the fingerprinting portion of the proposal. The CBA does not track statistics relating to sole proprietorships and therefore cannot identify business impacts. It could be assumed that if a licensee working for a firm chooses to pass the fingerprinting expenses on as a business expense, this could be correlated as a business impact. It should be noted that of the 27,716 active licensees identified, some will be employed in sole proprietorships and others with companies and corporations.

While all applicants for renewal will need to disclose certain information on the renewal form under this proposal, there are no costs associated with doing so other than as it relates to fingerprinting. Additionally, there are approximately 750 vendors statewide, including small businesses, which provide fingerprinting services. However, there should be little or no initial or ongoing cost impact upon the vendors because they are already equipped to provide the services.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons are available on the Board's Internet Web site at http://www.dca.ca.gov/cba/laws_and_rules/pubpart.shtml and may also be obtained at the hearing or prior to the hearing upon request from the California Board of Accountancy at 2000 Evergreen Street, Suite 250, Sacramento, California 95815.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named in the following section.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named in the following section or by accessing the Web site listed in the following section.

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name:	Matthew Stanley
Address:	California Board of Accountancy 2000 Evergreen Street, Suite 250 Sacramento, CA 95815
Telephone No.:	916-561-1792
Fax No.:	916-263-3678
E-Mail Address:	mstanley@cba.ca.gov

The backup contact person is:

Name:	Kari O'Connor
Address:	California Board of Accountancy 2000 Evergreen Street, Suite 250 Sacramento, CA 95815
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Web site Access: Materials regarding this proposal can be found at

[http://www.dca.ca.gov/cba/laws_and_rules/pubpart.shtml.](http://www.dca.ca.gov/cba/laws_and_rules/pubpart.shtml)